

SECOND REGULAR SESSION

SENATE BILL NO. 976

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Read 1st time January 31, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4204S.04I

AN ACT

To repeal section 260.750, RSMo, and to enact in lieu thereof two new sections relating to the transportation of radioactive waste, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 260.750, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 260.392 and 260.750, to read as
3 follows:

260.392. 1. As used in this section, the following terms mean:

2 (1) "Cask", all the components and systems associated with the
3 container in which spent fuel, high-level radioactive waste, highway
4 route controlled quantity, transuranic radioactive waste, or low-level
5 radioactive waste are stored;

6 (2) "Entity", the generator, owner or company responsible for
7 transportation of the spent fuel, high-level radioactive waste, highway
8 route controlled quantity shipments, transuranic radioactive waste, or
9 low-level radioactive waste;

10 (3) "High-level radioactive waste", the highly radioactive material
11 resulting from the reprocessing of spent nuclear fuel including liquid
12 waste produced directly in reprocessing and any solid material derived
13 from such liquid waste that contains fission products in sufficient
14 concentrations, and other highly radioactive material that the Nuclear
15 Regulatory Commission has determined to be high-level radioactive
16 waste requiring permanent isolation;

17 (4) "Highway route controlled quantity", a quantity of radioactive
18 material within a single package as defined in 49 CFR Part 173.403, as
19 amended;

20 (5) "Low-level radioactive waste", radioactive waste not classified
21 as high-level radioactive waste, transuranic radioactive waste, or spent
22 nuclear fuel, and is classified as low level radioactive waste by the
23 Nuclear Regulatory Commission, consistent with existing law;

24 (6) "Spent nuclear fuel", fuel that has been withdrawn from a
25 nuclear reactor following irradiation, the constituent elements of which
26 have not been separated by reprocessing;

27 (7) "State-funded institutions of higher education", any campus
28 of any university within the state of Missouri that receives state
29 funding and has a nuclear research reactor;

30 (8) "Transuranic radioactive waste", defined in 40 CFR 191.02, as
31 amended, as waste containing more than one hundred nanocuries of
32 alpha-emitting transuranic isotopes with half-lives greater than twenty
33 years, per gram of waste. For the purposes of this section, transuranic
34 waste shall not include:

35 (a) High-level radioactive wastes;

36 (b) Any waste determined by the Environmental Protection
37 Agency with the concurrence of the Environmental Protection Agency
38 administrator, that does not need the degree of isolation required by
39 this section; or

40 (c) Any waste that the Nuclear Regulatory Commission has
41 approved for disposal on a case-by-case basis in accordance with 10
42 CFR Part 61, as amended.

43 2. Any entity that transports or ships high-level radioactive
44 waste, transuranic radioactive waste, highway route controlled
45 quantity shipments, spent nuclear fuel, or low-level radioactive waste
46 through or within the state shall be subject to the fees established in
47 this subsection, provided that no state-funded institution of higher
48 education that ships nuclear waste shall pay any such fee. These
49 higher education institutions shall reimburse the Missouri state
50 highway patrol directly for all costs related to shipment escorts. The
51 fees for all other shipments shall be:

52 (1) One thousand eight hundred dollars for each cask
53 transported or shipped through or within the state by truck of high-
54 level radioactive waste, transuranic radioactive waste, spent nuclear
55 fuel or highway route controlled quantity shipments. All casks
56 transported or shipped by truck are subject to a surcharge of twenty-

57 five dollars per mile for every mile over two hundred miles traveled
58 within the state;

59 (2) One thousand three hundred dollars for the first cask and one
60 hundred twenty-five dollars for each additional cask for each rail
61 transport or shipment through or within the state of high-level
62 radioactive waste, transuranic radioactive waste or spent nuclear fuel;

63 (3) One hundred twenty-five dollars for each truck or train
64 transporting or shipping low-level radioactive waste through or within
65 the state. The department of natural resources may accept an annual
66 shipment fee as negotiated with a shipper or accept payment per
67 transport or shipment.

68 3. All revenue generated from the fees established in subsection
69 2 of this section shall be deposited into the environmental radiation
70 monitoring fund established in section 260.750 and shall be used by the
71 department of natural resources to achieve the following objectives and
72 for purposes related to the transport or shipment of high-level
73 radioactive waste, transuranic radioactive waste, highway route
74 controlled quantity shipments, spent nuclear fuel, or low-level
75 radioactive waste, including, but not limited to:

76 (1) Inspections, escorts, and security for waste shipment and
77 planning;

78 (2) Coordination of emergency response capability;

79 (3) Education and training of state, county, and local emergency
80 responders;

81 (4) Purchase and maintenance of necessary equipment;

82 (5) Emergency responses to any transportation incident
83 involving the high-level radioactive waste, transuranic radioactive
84 waste, highway route controlled quantity shipments, spent nuclear fuel,
85 or low-level radioactive waste;

86 (6) Oversight of any environmental remediation necessary
87 resulting from an incident involving a transport or shipment of high-
88 level radioactive waste, transuranic radioactive waste, highway route
89 controlled quantity shipments, spent nuclear fuel, or low-level
90 radioactive waste. Reimbursement for oversight of any such incident
91 shall not reduce or eliminate the liability of any party responsible for
92 the incident; such party may be liable for full reimbursement to the
93 state or payment of any other costs associated with the cleanup of

94 **contamination related to a transportation incident;**

95 **(7) Administrative costs attributable to the state agencies which**
96 **are incurred through their involvement as it relates to the transport or**
97 **shipping of high-level radioactive waste, transuranic radioactive waste,**
98 **highway route controlled quantity shipments, spent nuclear fuel, or**
99 **low-level radioactive waste through or within the state.**

100 **4. Nothing in this section shall preclude any other state agency**
101 **from receiving reimbursement from the department of natural**
102 **resources and the environmental radiation monitoring fund for services**
103 **rendered that achieve the objectives and comply with the provisions of**
104 **this section.**

105 **5. The department of natural resources in coordination with the**
106 **department of health and senior services, the department of public**
107 **safety and the department of transportation, shall promulgate rules**
108 **necessary to carry out the provisions of this section.**

109 **6. Any rule or portion of a rule, as that term is defined in section**
110 **536.010, RSMo, that is created under the authority delegated in this**
111 **section shall become effective only if it complies with and is subject to**
112 **all of the provisions of chapter 536, RSMo, and, if applicable, section**
113 **536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
114 **and if any of the powers vested with the general assembly pursuant to**
115 **chapter 536, RSMo, to review, to delay the effective date, or to**
116 **disapprove and annul a rule are subsequently held unconstitutional,**
117 **then the grant of rulemaking authority and any rule proposed or**
118 **adopted after August 28, 2006, shall be invalid and void.**

119 **7. All funds deposited in the environmental radiation monitoring**
120 **fund through fees established in subsection 2 of this section shall be**
121 **utilized, subject to appropriation by the general assembly, for the**
122 **administration and enforcement of this section by the department of**
123 **natural resources. All interest earned by the monies in the fund shall**
124 **accrue to the fund.**

125 **8. All fees shall be received by the department of natural**
126 **resources prior to shipment in a manner provided for in rules**
127 **promulgated by the department of natural resources.**

128 **9. Notice of any transport or shipment of high-level radioactive**
129 **waste, transuranic radioactive waste, highway route controlled**
130 **quantity shipments, spent nuclear fuel, or low-level radioactive waste**

131 through or within the state shall be provided to the governor's designee
132 for advanced notification, as described in 10 CFR Parts 71 and 73, as
133 amended, prior to such transport or shipment entering the state.

134 **10. Any person who fails to pay a fee assessed under this section,**
135 **or fails to provide notice of a transport or shipment, shall be liable in**
136 **a civil action for an amount not to exceed ten times the amount**
137 **assessed and not paid. The action shall be brought by the attorney**
138 **general at the request of the department of natural resources, the**
139 **department of health and senior services, the department of public**
140 **safety or the department of transportation. If the action involves a**
141 **facility domiciled in the state, the action shall be brought in the circuit**
142 **court of the county in which the facility is located. If the action does**
143 **not involve a facility domiciled in the state, the action shall be brought**
144 **in the circuit court of Cole county.**

145 **11. Beginning on December 31, 2007, and every two years**
146 **thereafter, the department of natural resources shall prepare and**
147 **submit a report on activities of the environmental radiation monitoring**
148 **fund to the general assembly. This report shall include information on**
149 **fee income received and expenditures made by the state to enforce and**
150 **administer the provisions of this section.**

260.750. 1. The department of natural resources shall develop an
2 environmental radiation monitoring program for the purpose of monitoring
3 radioactivity in air, water, soil, plant and animal life as necessary to insure the
4 protection of the public health and safety of the environment from radiation
5 hazards.

6 2. There is hereby created within the state treasury an "Environmental
7 Radiation Monitoring Fund". In addition to general revenue, the department of
8 natural resources is authorized to accept and shall deposit in said fund all gifts,
9 bequests, donations, or other moneys, equipment, supplies, or services from any
10 state, interstate or federal agency, or from any institution, person, firm, or
11 corporation, public or private **as well as fees collected under subsection 2**
12 **of section 260.392.** This fund shall be used for the environmental radiation
13 monitoring program established in this section **and to administer and enforce**
14 **the provisions of section 260.392.**

Section B. Because immediate action is necessary to enable both the
2 promulgation of rules pertaining to the implementation of this act and to preserve

3 the state's environment, section A of this act is deemed necessary for the
4 immediate preservation of the public health, welfare, peace and safety, and is
5 hereby declared to be an emergency act within the meaning of the constitution,
6 and section A of this act shall be in full force and effect upon its passage and
7 approval.

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Unofficial

Bill

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